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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 173/2007

R.A/C.P No.....

E.P/M.A No.....

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SECTION OFFICER (Judl.)

Subita
05.10.17

CENTRAL GOVERNMENT OF INDIA
COURT OF APPEAL
CHAMBERS

ORDER SHEET

1. Original Application No. 173/67
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant (S. P. K. Chaudhury) vs Union of India & Ors

Advocate for the Applicant (S) M. Chanda
S. Math, M. De. Datta.

Advocate for the Respondent (S) Sr. C.G.S.C. G. Baishya.

Notes of the Registry Date Order of the Tribunal

28.6.2007

Applicant had earlier approached this

This application is in form
is filed/On 18.6.07
deposited on 18.6.07
No. 346654328
Dated 18.6.07

Tribunal by way of O.A.262/1999 wherein this
Tribunal directed the Respondents to hold
review DPC for consideration of Applicant's
promotion. On the basis of that order or
otherwise Applicant was promoted in 2002 to
the cadre of Joint Area Organiser. Subsequently
also he has not been promoted to Area
Organiser whereas his junior has been
promoted. At Annexure-5 Memorandum dated
10.08.2006 it was stated that Applicant could
not attain the required bench mark "Very Good"
for promotion. His representation for reviewing
his case for promotion for Area Organiser has
also been rejected vide order dated 01.07.2007
(Annexure-8). Hence this O.A.

Heard Mr.M.Chanda, learned counsel
for the Applicant. Mr.G.Baishya, learned
Sr.C.G.S.C. appeared on behalf of the
Respondents.

Contd...

OA. 173/2007

Contd.
28.6.2007

Considering the issue involved in this case I am of the view that the O.A. has to be admitted. Admit the O.A. Issue notice to the Respondents. Six weeks time is granted to the Respondents to file reply statement.

Post the case on 13.08.2007. Respondents are directed to produce the relevant file pertaining to promotion and also the ACRs etc. of the Applicant.

7-9-07
No steps to issue notice
received.
/bb/

Vice-Chairman

7-9-07
No W/S & Records
filed.
6m

10.9.2007

Mr.G.Baishya, learned Sr.C.G.S.C. is granted four weeks time to file reply statement.

Post on 9.10.2007.

Vice-Chairman

① NO steps taken for
Issue Notice.

2. No W/S not filed.

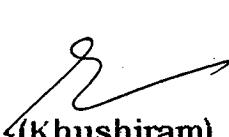
/bb/

23
8/10/07

09.10.07. It appears that notices were not issued.

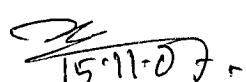
Issue Notice to the Respondents requiring them to file reply by 16.11.07.. Mr.M.Chanda undertakes to verify the matter (relating to filing of copies of the Original Application and adequate envelopes for issuance of notices to the respondents) during the course of the day.

Call this matter on 27.11.07.


(Khushiram) Member(A)


(Manoranjan Mohanty) Vice-Chairman

W/S not filed.


15.11.07.

lm

16.11.2007 No reply has yet been filed in this case. Call this matter on 10th January, 2008 awaiting reply from the Respondents.

Send copies of this order to the Respondents in the addresses given in the

O.A.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

Lm

Dt. 19.11.07.
Pl. send order copy
to the Respondents.

10.01.2008

On the prayer of Mr.G.Baishya, learned Sr. Standing counsel for the Union of India, call this matter on 11.02.2008 awaiting written statement from the Respondents.


(Khushiram)
Member (A)
(M.R. Mohanty)
Vice-Chairman

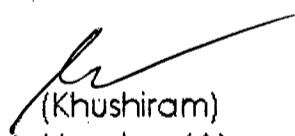
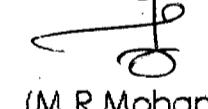
order dt. 16/11/07
Set to D/Section
for issuing to
R- 1 to 5 day
post.

/bb/

11.02.2008

No written statement has ~~already~~ ^{yet} been filed in this case.

Call this matter on 03.03.2008 awaiting written statement from the Respondents.


(Khushiram)
Member (A)
(M.R. Mohanty)
Vice-Chairman

/bb/

9.1.08
No W.S. filed.

On

W/S not filed.

23
8.2.08

03.03.2008

Mr M.Chanda, learned counsel for the applicant is present and Mr G.Baishya, learned ~~Adv.~~ C.G.S.C for the Respondents prays for four weeks time to file written statement.

Call this matter on 04.04.2008.

29.2.08
No W.S. filed

On

pg.


(Khushiram)
Member(A)

4.2
O.A. 173 of 07

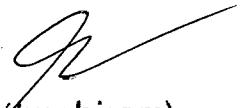
24. 3. 08

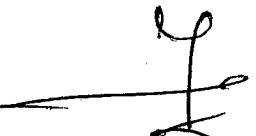
04.04.2008

Call this matter on 02.05.2008

awaiting rejoinder from the Applicant.

We were informed by the
Respondents. Copy served.
Im


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Wks. b/leef

02.05.2008

Counsel for the Applicant has filed a letter of absence. Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents is present.

Call this matter on 12.5.2008.

Rejoinder not
filed.

1.5.08.

Im


(Khushiram)
Member(A)

Rejoinder not
filed.

9.05.08

12.05.08

On the prayer of Mr M. Chanda, learned counsel for the Applicant, call this matter on 22.05.2008.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

pg

21.5.08

22.05.2008

Heard Mrs. U. Dutta, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents of this case.

Mr. G. Baishya, learned Sr. Standing Counsel appearing for the respondents has raised a question of territorial jurisdiction of this Bench of this Tribunal to adjudicate the present case. Faced with the said question, Mrs. U. Dutta, learned counsel appearing for the Applicant has filed a memo with a prayer to withdraw the case and to take liberty to file fresh one before appropriate forum.

Contd/-
22.05.2008

Heard. Prayer to withdraw the case is allowed and the liberty to the Applicant is hereby granted to put up his grievances in appropriate forum.

This case stands dismissed being withdrawn. No costs.

Send copies of this order to the Applicant and the Respondents in the address given in the O.A. and free copies of this order be also supplied to the learned counsel appearing for both parties.

km


(Khushiaran)
Member(A)


(M.R. Mohanty)
Vice-Chairman

27 JUN 2007

গুৱাহাটী বৰাদৰী
Gauhati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 173 /2007

Sri Pradip Kumar Choudhury.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

18.06.2001- Applicant approached this Hon'ble Tribunal for consideration of his promotion to the post of Joint Area Organiser with his junior through OA No. No. 262/1999, which was disposed of with a direction to hold a review DPC for consideration of his promotion, but no outcome informed to the applicant regarding the review DPC. (Annexure-1)

15.07.2002- Applicant was promoted to the cadre of Joint Area Organiser, along with his junior Smti Sushila Sharma. (Annexure-2)

02.08.2006- Respondent no. 5 was promoted to the cadre of Area Organiser in the pay scale of Rs. 12,000-16,500/- is super cession of the claim of the applicant. (Annexure-3)

19.03.2006, 20.03.2006- Applicant submitted representation for consideration of his promotion to the cadre of Area Organiser with his junior. (Annexure-4 series)

10.08.2006- Office of the Director General informed the applicant that he could not attain the required bench mark for promotion. (Annexure-5)

25.01.2005- Respondent no. 5 is junior to the applicant as per seniority list, but she was promoted to the cadre of Area Organiser in super cession of the claim of the applicant. (Annexure-6)

20.11.2006- Applicant submitted representation to the DG, SSB, New Delhi for notional benefit of promotion to the cadre of Joint Area Organiser, and for consideration of his promotion to the cadre of Joint Area Organiser from the date of promotion of his junior and also praved for re-fixation of his seniority. (Annexure-7)

01.02.2007- DG, SSB, New Delhi vide impugned memorandum dated 01.02.07 intimated that pursuant to the order of the learned Tribunal on

Pradip ver. Choudhury

29.06.01, a review DPC was held on 20.08.01 for consideration of promotion of the applicant to the cadre of JAO, but at that time applicant was not found fit for promotion, but no reason has been assigned for non consideration of his promotion in the cadre of JAO.

(Annexure-8)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum bearing letter No. 7/SSB/A-2/2004 (2) dated 10.08.2006 (Annexure- 5) as well as impugned memorandum bearing impugned memorandum bearing letter No. 14/SSB/A2/2002 (94) 1309 dated 01.02.2007 (Annexure- 8).
2. That the Hon'ble Tribunal be pleased to direct the respondents to hold fresh review DPC for consideration of the case of the applicant for ante dating promotion to the cadre of Joint Area Organiser ignoring the uncommunicated downgrading ACR, if any, to provide benefit of promotion at par with his junior in the light of the direction contained in the judgment and order dated 18.06.2001 passed in O.A No. 262/1999.
3. That the respondents be directed to hold the review DPC to consider promotion of the applicant to the cadre of Area Organiser, ignoring the downgrading uncommunicated ACR and further be promoted to the cadre of Area Organiser with all consequential benefit at least from the date of promotion of his junior i.e. respondent No. 5.
4. Costs of the application.
5. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the respondents for considering the representation of the applicant and the prayers sought for.

Prahlad Verma Chaudhary

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 173 /2007

Shri. P.K.Choudhury. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Neeta

Advocate

Date: 22.06.07

Predy Mr. Choudhury

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 173 /2007

BETWEEN:

Shri P.K.Choudhury,
Sub-Area Orgabiser, SSB, Barpeta,
Office of the Area Organiser,
North Kamrup, Area Howly,
District- Barpeta.

.....Applicant.

-AND-

1. The Union of India,
Represenied by the Secretary to the
Government of India.
Ministry of Home Affairs,
New Delhi-110066.
2. The Directorate General, SSB,
East Block-V, R.K.Puram
New Delhi-110066.
3. Assistant Director,
Block-V (East)
R.K.Puram,
New Delhi-110066.
4. Deputy Inspector General,
SSB Kheri West at Palia.
Dist- Lakhimpur Kheri (U.P)

Filed by the applicant
through U. Dulla, advocate
on 22.06.07

Pradeep ver. Choudhury

3. Smti. Sushila Sharma,
 Area Organiser, SSB.
 Birpur Area, S.S.B
 S.S.B
 FTR Hqrs, Patna, Bihar.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned memorandum bearing letter No. 14/SSB/A 2/2002 (4) 1309 dated 01.02.2007 (Annexure- 8) and also praying for a direction upon the respondents to hold the review DPC in ignoring uncommunicated/downgrading ACR for promotion to the cadre of Joint Area Organiser in SSB in compliance with the direction passed by this Hon'ble Tribunal in O.A. No. 262/1999 and also to hold further review DPC for consideration of promotion to the post of Area Organiser, ignoring the uncommunicated/downgraded ACR.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

P. N. Choudhury

4.2 That your applicant is presently working as Joint Area Organiser at Falakata, in the department of SSB, under the Director General, Govt. of India, Ministry of Home Affairs, New Delhi. The applicant is under administrative control of Deputy Inspector General, Frontier Head quarters, SSB, Guwahati.

* 4.3 That your applicant while working as Sub -Area organiser, SSB Barpeta approached this learned tribunal by filing an original application under section 19 of Administrative Tribunal's act, 1985, the said O.A was registered as O.A No. 262/1999 praying interalia for reconsideration of his promotion to the post of Joint Area Organiser atleast w.e.f the date of promotion of his junior by holding a review DPC. The said original application no. 262/1999 was contested by the present respondent and finally the said original application was allowed on 18.06.2001 by the learned tribunal with the direction to hold review DPC for consideration of his claim for promotion as Sub Area Organiser. But the respondents were silent in this regard, regarding outcome of the review DPC. The applicant being highly depressed and also due to certain domestic problems, could not take up the matter with the respondent authority relating to his promotion in terms of the Hon'ble Tribunal's order dated 18.06.2001.

(Copy of the judgment and order dated 18.06.2001 is annexed hereto and marked as Annexure-1).

4.4 That it is stated that the applicant was promoted to the cadre of Joint-Area Organiser vide order bearing no. 7/SSB/A2/2001 (1) 2709-2748 dated 15.07.2002, whereby the applicant was promoted/appointed as Joint-area organiser in the pay scale of Rs. 10,000-15,300/- w.e.f the date of assumption of charge following approval of Ministry of Home affairs vide diary no. 871/115/2002 dated 08.05.2002 along with his junior Smti. Sushila Sarma. Therefore it appears that the applicant was found suitable for promotion to the cadre of Joint-Area Organiser during the recruitment year

Pradeep K. Chetry

2002. Due to non consideration of his promotion with the learned Tribunal's order dated 18.06.2001, the applicant suffered irreparable loss and injury in the matter of his promotion and future promotion prospect.

(A Copy of the promotion order dated 15.07.2002 is enclosed as Annexure-2).

4.5 That it is stated that the authorities failed to hold regular DPC for consideration of promotion of the eligible officers in each recruitment year even though the eligible officers are well within the zone of consideration. It is relevant to mention here that the applicant was aggrieved for non consideration/non recommendation of his name for promotion to the cadre of sub-area Organiser by the DPC held on 18.12.1997. But thereafter no DPC was arranged by the respondents till 2002. However, now it appears from the impugned memo. dated 01.02.2007, that review DPC was held on 22.08.2001. But there is no indication as to why the regular DPC was not held during the year 1998, 1999 and 2000, as such the applicant has been deprived of his legitimate promotion to the cadre of Joint-Area organiser with retrospective effect. It is pertinent to mention here that when the applicant was found eligible and suitable for promotion in July, 2002 in the cadre of Joint-area organiser, it can be rightly presumed that he was eligible for promotion during the year 1997, 1998, 1999, 2000 and 2001 also. As such the applicant is entitled for promotion to the cadre of Joint-area organiser with retrospective effect with all consequential service benefit by holding review DPC/DPC in the year 1997, 1998, 1999, 2000 and 2001.

4.6 That it is stated that the vide order bearing letter no. 7/SSB/A-2/2004 (2)-1112-60 dated 02.03.2006, whereby Smli. Sushila sarma, Junior to the applicant was promoted to the cadre of area organiser, SSB in the pay scale of Rs. 12,000-375-16,500/- in super session of the claim of the present applicant.

(A copy of the impugned promotion order dated 02.03.2006 is annexed hereto as Annexure-3).

Pradeep Verma

4.7 That your applicant being highly aggrieved by continuous deprivation of his legitimate promotion with due date submitted representation on 19.03.2006, wherein the applicant has stated that his case was not considered for promotion in the right perspective and as a result his immediate junior Smti. Sushila Sarma, respondent no. 5 has been promoted to the cadre of area organiser, superseding him in the matter of promotion and further contended by the applicant, particularly, in para 4 of the said representation, quoting one of the judgment of the learned Tribunal that if the employee concerned failed to attain the required bench mark and to that effect no communication is received from the authority, either because of non-attainment of required bench mark or because of non-communication of downgrading ACR, in that event, it would be presumed that there are uncommunicated downgrading ACR and the said adverse ACR, for the purpose of promotion could not be taken into consideration by the DPC. The applicant further pointed out that since nothing was communicated to him relating to ACR in his case, as such, the bench mark or grading should be treated as 'very good' and the applicant ought to have been promoted to the cadre of area organiser with all consequential benefit, atleast from the date of promotion of his junior i.e respondent no. 5. The applicant further pointed out that the way the higher authority has appreciated his performance and as such the respondents are liable to reconsider his promotion to the cadre of area organiser.

(Copy of the representation dated 19.03.2006 and the forwarding letter dated 20.03.2006 are enclosed as Annexure- 4 series).

4.8 That the office of the Director General, SSB, New Delhi, vide impugned memo, bearing letter no. 7/SSB/A-2/2004 (2) dated 10.08.2006, informed the applicant that he could not attain the required bench mark 'very good' for promotion, therefore DPC could not recommended his name, but the name of Smti. Sushila Sarma, joint area organiser was recommended by

Pradeep Ver. Chaudhary

the same DPC during the vacancy year 2005/06. But surprisingly, the respondent did not deal with any of the grounds raised by the applicant in his representation dated 19.03.2006, more particularly regarding uncommunicated downgrading ACR, and as such the impugned memorandum dated 10.08.2006 cannot be sustained in the eye of law rather in the facts and circumstances stated above, the respondent Union of India is duty bound to hold a review DPC to reconsider the promotion of the applicant ignoring uncommunicated downgrading ACR with all consequential service benefit including seniority to the cadre of Area Organiser.

(A copy of the impugned memo. dated 10.08.2006 is enclosed as Annexure-5).

4.9 That it is stated that the Director General, SSB, New Delhi, circulated seniority list of Joint Area Organiser in SSB as on 01.01.2005 vide memo. bearing No. 21/SSB/A 2/2003 (2)-325-50. In the said seniority list it would be evident that Smti. Sushila Sharma, respondent No. 5 is junior to the present applicant, but she was promoted to the cadre of Area Organiser, in supersession of the claim of the present applicant on the alleged ground that the applicant could not attain the required bench mark for promotion to the cadre of Area Organiser. It is a settled position of law that in the event of non attaining of required bench mark for promotion to the next higher grade, in that event the respondent authority is duty bound to provide necessary opportunity communicating the downgrading ACR in order to enable the applicant to improve his performance, but in the instant case nothing has been communicated to the applicant for improvement of his performance, as such the DPC cannot consider uncommunicated downgrading ACR of the applicant for promotion to the cadre of Area Organiser in the scale of Rs. 12,000-16,500/- and on that score alone, the impugned memorandum dated 10.08.2006 is liable to be set aside and quashed, and the Hon'ble Court be pleased to direct the

Pratip m. Chakraborty

respondents to hold the review DPC to consider the promotion of the applicant to the cadre of Area Organiser ignoring the uncommunicated downgrading ACK in the appropriate scale of Rs. 12,000-375-16,500/- with all consequential benefit including seniority at least from the date of promotion of his junior Smti. Sushila Sharma, respondent No. 5.

(Copy of the memorandum dated 25.01.2005 is enclosed as Annexure-6).

4.10 That your applicant being highly aggrieved of non sanction of notional benefit of promotion to the cadre of Joint Area Organiser in terms of the judgment and order dated 18.06.2001 passed in O.A No. 262/1999 by the Hon'ble Tribunal submitted a detailed representation on 20.11.2006 addressed to DG, SSB, New Delhi, wherein the applicant inter alia prayed for consideration of his promotion to the cadre of Joint Area Organiser with all consequential service benefit at least from the date of promotion of his immediate junior. In the said representation, the applicant further pointed out that there was no justification to deny him, when his juniors have been promoted to the said cadre of Area Organiser. However, he has prayed to review his case for promotion to the cadre of Area Organiser from the date of promotion of his juniors and further prayed notional benefit of promotion at par with his junior Sri Dilip Pal, now promoted to the cadre of Area Organiser and also prayed for re-fixation of his seniority.

(A copy of the representation dated 20.11.2006 is enclosed as Annexure-7).

4.11 That your applicant further begs to say that after submission of his representation dated 20.11.2006, the office of the DG, SSB, New Delhi vide impugned memorandum bearing letter No. 14/SSB/A2/2002 (94) 1309 dated 01.02.2007, wherein it has been stated that pursuant to the order of

Pn. Dr. Mr. Chandra

the learned Tribunal dated 18.06.2001 passed in O.A No. 262/1999, a review DPC was held on 20.08.2001 for consideration of promotion to the cadre of Joint Area Organiser, but the applicant was not found fit by the review committee also. And it has further been stated that this position has already been informed to the officer concerned vide memo No. 35/SSB/A 2/99 (3)-2588-89 dated 18.09.2001. It has further been stated that the representation dated 19.03.2006 for promotion to the rank of Area Organiser, the same has also been examined with reference to Smti. Sushila Sarma vide HQ memo dated 10.08.2006 and further stated that the representation dated 20.11.2006 is rejected being devoid of merit.

On a careful reading of the impugned memorandum dated 01.02.2007, it would be evident that no reason has been assigned for non recommendation of his name for promotion to the cadre of Joint Area Organiser by the review DPC held on 22.08.2001. In the representation dated 20.11.2006, the applicant specifically stated that there was no adverse communication or downfall in his ACR. Therefore there is no justification for not recommending his name by the review DPC held on 22.08.2001. It is pertinent to mention here though the applicant has been promoted to the cadre of Joint Area Organiser vide order dated 15.07.2002 by the respondents themselves as such there is no justifiable reason not to recommend by the DPC for promotion to the cadre of Joint Area Organiser as per direction of the Hon'ble Tribunals order dated 18.06.2001. It is relevant to mention here that due to non recommendation of his name for promotion in the cadre of Joint Area Organiser, the applicant has been denied ante dating promotion and re-fixation of his pay in the promotional post of Joint Area Organiser at par with his junior Sri Dilip Pal, as a result, the applicant is incurring huge financial loss in the emoluments and also incurring loss in getting the increment etc. As such it is a recurring cause of action and the prayer for promotion with retrospective effect to the cadre of Joint Area Organiser is well within the time limit.

Predit u Chdm

(A copy of the impugned memorandum dated 01.02.2007 is enclosed as Annexure-8).

4.12 That it is further stated that, in the impugned memorandum dated 10.08.2006, wherein the respondents have specifically stated that the applicant has not been recommended to the cadre of Area Organiser because of non attaining the required bench mark. The alleged ground is not sustainable in the eye of law, in view of the settled legal position as explained above.

In the circumstances stated above, the applicant has no alternative but to approach this Hon'ble Tribunal for protection of his valuable legal right and interest. And it is further submitted that, it is a fit case to interfere with to protect the right and interest of the applicant.

4.13 That this application is made bona fide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

5.1 For that, no grounds has been assigned by the respondents, in the impugned memorandum dated 01.02.2007 for non consideration of the case of the applicant for anti-dating promotion to the cadre of joint area organiser at par with his junior in the light of the direction contained in the judgment and order dated 18.06.2001 passed in O.A No. 262/1999.

5.2 For that, the applicant has never been communicated any adverse remark or downgrading of ACR as such, non consideration of promotion of the applicant to the cadre of Accounts officer on the alleged ground of non attaining of required bench mark is highly arbitrary, illegal and opposed to public policy.

5.3 For that, uncommunicated downgrading ACR cannot be acted upon by the DPC, but it appears that the DPC has acted upon on the uncommunicated downgrading ACR which is not sustainable in the eye

P. N. Chaturvedi

of law, in view of the settled legal position, therefore the respondents be directed to hold the review DPC to consider the promotion of the applicant to the cadre of Accounts officer, ignoring the downgrading uncommunicated ACR.

5.4 For that, no reason has been assigned by the respondents for non recommendation of the case of the applicant by the review DPC held on 22.08.2001 in terms of the direction in the judgment and order dated 18.06.2001 passed in O.A No. 262/1999.

5.5 For that, the respondents remained silent regarding the adverse remark recorded in his ACR for the period from 01.04.1995 to 20.04.1995 for which the applicant submitted representation on 11.10.2006.

5.6 For that, the respondents failed to inform the applicant regarding fate of his representation dated 11.10.2006 against the adverse remark recorded for the period from 01.04.1995 to 20.04.1995.

5.7 For that, it is a settled legal position that the DPC or review DPC should not take into consideration the adverse remark contained in the ACR, when the representation for the same is pending before the authority. But in the instant case, the entire position is kept in dark, as to whether expunction order was taken into consideration by the review DPC or not.

5.8 For that, the review DPC held on 22.08.2001 might have taken consideration some other downgraded uncommunicated adverse ACR, therefore the applicant was not recommended by the review DPC held on 22.08.2001. Therefore normal presumption is that the applicant has not been considered for promotion due to uncommunicated downgrading ACR.

Pradeep Mr. Chohan

5.9 For that, the applicant has been superseded by his junior Smti. Sushila Sharma on the alleged ground of non attaining required bench mark, whereas, the applicant has never been intimated or provided with any opportunity.

6. Details of remedies exhausted.

That the applicant declares that she has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that she had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief (s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum bearing letter No. 7/SSB/A-2/2004 (2) dated 10.08.2006 (Annexure- 5) as well as impugned memorandum bearing impugned memorandum bearing letter No. 14/SSB/A2/2002 (94) 1309 dated 01.02.2007 (Annexure- 8).

Pratip m. Chak

3.2 That the Hon'ble Tribunal be pleased to direct the respondents to hold fresh review DPC for consideration of the case of the applicant for ante dating promotion to the cadre of Joint Area Organiser ignoring the uncommunicated downgrading ACR, if any, to provide benefit of promotion at par with his junior in the light of the direction contained in the judgment and order dated 18.06.2001 passed in O.A No. 262/1999.

3.3 That the respondents be directed to hold the review DPC to consider promotion of the applicant to the cadre of Area Organiser, ignoring the downgrading uncommunicated ACR and further be promoted to the cadre of Area Organiser with all consequential benefit at least from the date of promotion of his junior i.e. respondent No. 5.

3.4 Costs of the application.

3.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the respondents for considering the representation of the applicant and the prayers sought for.

10.....

11. Particulars of the I.P.O

i) L.P.O No. : 34 G 654928
 ii) Date of issue : 18.06.07
 iii) Issued from : G.P.O, Guwahati
 iv) Payable at : G.P.O, Guwahati

12. List of enclosures : As given in the index.

Precip Mr. Choudhury

VERIFICATION

I Shri Pradeep Kumar Choudhury, working as Sub Area Organiser, SSB, Barpeta, North Kamrup, Area Howly, District- Barpeta, Assam do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 17th day of June 2007.

P. Pradeep. Kr. Choudhury

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-1

Original Application No.262 of 1999

Date of decision: This the 18th day of June 2001

The Hon'ble Mr Justice R.R.K. Trivedi, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Pradeep Kumar Choudhury,
Sub-Area Organiser, SSB, Barpeta,
Office of the Area Organiser,
North Kamrup, Area Howly,
District- Barpeta.

.....Applicant

By Advocates Mr S. Ali and Mr I. Hussain.

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)

TRIVEDI.J. (V.C.)

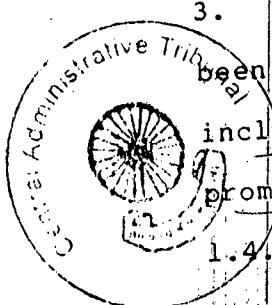
By means of this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for direction to the respondents to hold review DPC to consider the case of the applicant to promote him to the post of Joint Area Organiser, Special Security Bureau (hereinafter referred to as SSB). It has been further claimed that the respondents may be further directed to promote the applicant from the date his juniors were promoted as Joint Area Organiser.

2. The facts, in short, giving rise to the dispute are that the applicant, P.K. Choudhury, joined as circle Organiser on 17.4.1976. On 4.4.1987, the applicant was

Attested
Datta
ADW

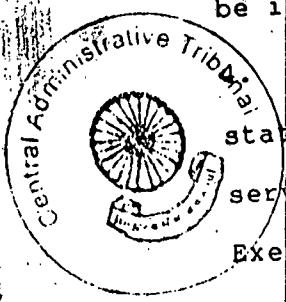
promoted as Sub-Area Organiser and posted at Daporijo, Upper Subansiri District, Arunachal Pradesh. The order dated 20.2.1987 promoting the applicant to the post of Sub-Area Organiser has been filed as Annexure 2. From Sub-Area Organiser the next promotion is to the post of Joint Area Organiser. It appears that on 18.12.1997 DPC was convened for considering the names of the persons who were serving as Sub-Area Organiser for promotion to the post of Joint Area Organiser. However, the applicant was not recommended for promotion, aggrieved by which the applicant has filed this application.

3. Written statement has been filed, wherein it has been stated that the panel recommended by the DPC did not include the name of the applicant, hence he was not promoted. It appears that in respect of the period from 1.4.1995 to 20.4.1995 the applicant was given adverse remarks against which he filed representation on 11.10.1996, which was pending before the competent authority for consideration. It appears that the DPC did not recommend the name of the applicant on account of the adverse remarks communicated to him for the aforesaid period. The representation filed by the applicant, however, was allowed on 15.2.1999. A copy of the order has been filed as Annexure 6. The fact has been admitted in para 6 of the written statement. In para 20 of the written statement, however, it has been stated that the applicant's submission that he submitted a representation to the Directorate against the adverse remarks is not correct. No such representation was received. The applicant has not given any reference by which he has submitted his representation. It is difficult reconcile the averments made.....



made in para 6 and para 20 of the written statement. The existence of the order dated 15.2.1999 has been admitted, which specifically refers the representation dated 11.10.1996 against the adverse remarks recorded in his part ACR for the period from 1.4.1995 to 20.7.1995. The officer who has filed the written statement could not have stated in para 20 of the same written statement that no representation against the adverse remarks was filed. The statement in para 20 of the written statement appears to be incorrect.

In para 20 of the written statement it has also been stated that ~~promotion~~ Sub-Area Organiser, with six years service in the grade and who has successfully passed the Executive Officers Training course, can be considered for promotion to the rank of Joint Area Organiser. In the present case, as the applicant was promoted and appointed as Sub-Area organiser on 4.4.1987 he had already completed more than ten years service as Sub-Area Organiser on 18.12.1997 when the DPC held its meeting. So far the adverse remarks are concerned the settled legal position is that either the DPC should wait for the result of the representation made by the concerned officer or it should itself consider the representation of the applicant against the adverse remarks. In the present case the DPC failed to adopt either of the two courses open. It appears that on account of adverse remarks, the claim of the applicant was not considered suitable for the next promotional post. In our opinion, in view of the fact that adverse remarks had been expunged the applicant is entitled for the relief claimed in the O.A.



5. The O.A. is accordingly allowed. The respondents are directed to hold a review DPC meeting for consideration of the claim of the applicant for promotion from Sub-Area Organiser to the post of Joint Area Organiser within a period of three months from the date a copy of this order is filed. If the applicant is found suitable for promotion by the DPC he shall be entitled for promotion from the date ^{notified} his juniors were promoted to the post ^{however monetary benefit} ~~the shall get from the date of action promotion."~~

6. Before parting with this case we express our unhappiness against the irresponsible statements made in the written statement by Shri P.C. Dangwal, Divisional Organiser, Special Security Bureau, North Assam Division, Tezpur. It is difficult to reconcile para 6 and para 20 of the written statement. Verification clause of the written statement is also defective. Paragraphs 6 ^{and} 20 have been verified as correct on basis of information. The official respondents always file the written statement and affidavits on the basis of information received from the records and their correctness should be verified with reference to the record only. Though, initially we intended to take action ourselves against the officer, however, as it has been noticed for the first time by this Tribunal, we are leaving it to the Departmental Authorities to take care in future and to avoid such happenings.

7. A copy of this order shall be forwarded to the Director General, Special Security Bureau, New Delhi, for information and follow-up action in the matter.

No order as to costs.

Attested
R. Datta
S. W.

Date of Application : 13/11/06

on which copy is ready : 13/11/06

on which copy is delivered : 13/11/06

Certified to be true copy

N. M. 13/11/06
Section Officer (Jadu)

C. A. T. Gauhati Bench
Guwahati 13/11/06

Sd/VICE CHAIRMAN
Sd/MEMBER (Adm)

No.7/SSB/A2/2001(1) 27/09/2002

Ministry of Home Affairs,
Directorate General, SSB,
East Block-V, R.K.Puram,
New Delhi-110066.

Dated the 5 July 2002

ORDER

Pursuant to the Approval of the MHA vide Dy No.871/HIS/2002 dated 8.5.02, the following Sub Area Organisers are appointed to the grade of Joint Area Organiser in the pay scale of Rs.10,000-15300/- in SSB on promotion basis with effect from the date of assumption of charge of the post at the places indicated against each until further orders:

SNo	Name of SAO	Present place of Posting	Posted on promotion as JAO
1.	P.K. Choudhury	Barpeta,NAD	Kinnaur Area against vacant post. He has been allowed to take over charge at Barpeta,NAD a place other then the prescribed Hqrs. As the Kinnaur area has been shifted to Kheri(W),UP, Shri Choudhury after taking over as JAO will move to Kheri (West) immediately.
2.	Smt. Sushila Sharma	North Lakhimpur	Posted to Divl.Hqrs NAD on promotion as JAO against vacant post
2.	In partial modification of SSB Hqrs Order Nos 4/SSB/A2/2002(1) dated 19.4.02 and 4/SSB/A2/2002 (2) dated 19.4.2002,DG, SSB has also ordered transfer/postings of the following AOs/JAOs in public interest:-		

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Mulla
A.S.W.

D.T.O.
D.I.O.
S.O.(A)
S.O. (Ops)
S.O.....

No.7/SSB/A2/2004(2)

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
SASHAstra SEEMA BAL
FORCE HEADQUARTERS
EAST BLOCK-V, R.K. PURAM
NEW DELHI - 110086.

112 - 60

2985

7/3/06

Dated:

02.03.06

ORDER

Pursuant to the approval of MHA vide their ID No. CFN-13600/2005/PERS.III dated 29th November, 2005, Smt. Sushila Sharma, Joint Area Organiser, Ranidanga Area is appointed to the grade of Area Organiser in the pay scale of Rs.12,000-375-16,500/-, keeping in abeyance the pay scale of Rs.14,300-400-18,300/-, in SSB on promotion with effect from the date of assumption of charge of the post at Birpur Area, in public interest:

2. The above officer will be required to exercise his option for fixation of pay within one month in terms of DOP&T OM No.1/2/87/Estd(Pay.I) dated 09-11-1987 and as amended from time to time.

3. Smt Sharma, JAO is stand relieved on 07.03.2006[AN] from Ranidanga Area to join at Birpur Area on promotion as Area Organiser (Rs.12,000-375-16,500) and her date of joining on promotion may be intimated on same day through FAX to this Hqr.

(Subhash Kumar)

Assistant Director (EA-II)

Distribution:-

1. The Controller of Accounts, PAO, SSB[MHA], New Delhi.
2. PS to DG, SSB & PS to ADG, SSB FHQ SSB New Delhi.
3. PS to IG[Pers]/IG[O&I]/IG[T&A]/IG[PA&W]/Director[Medical] /CE, FHQ, SSB New Delhi.
4. The IG, SSB FTR HQ Lucknow / Patna / Guwahati.
5. The Director, SSB Academy, Srinagar - Garhwal.
6. All Deputy Inspectors General at FHQ SSB New Delhi.
7. All DIgG, SHQs, TCs in Sashastra Seema Bal. *Bahraich*
8. All Assistant Directors at FHQ SSB New Delhi.
9. Smt Sushila Sharma, JAO, Ranidanga, SSB.
10. Order File.

Attested
Writter
A.S.W

To

The Director General, SSB,
Force Hqrs, East Block-V.
R.K.Puram, New Delhi-110066

(Through Proper Channel)

Sub: **Representation -request convey reason for debarred of from promotion.**

Sir,

With due respect and humble submission, I have the honour to lay before you the following facts to the subject cited above for favour of your kind perusal and necessary action please:

1. that Sir, as per Seniority list of Joint Area Organiser's in SSB as on dated 1/1/2005 circulated vide Memo No. 21/ASSBA2/2003(2)-325-50 dated 25/1/2005 of Force Hqrs New Delhi, my name is found figured at Sr. No. 12. Smt Sushila Sharma posted as Joint Area Organiser in Ranidanga under FTR Hqrs Patna as per seniority list above, her name was found figured in Sr.No. 13. vide Force Hqrs. SSB New Delhi order No.7/SSB/A2/2004/2/1112-60 dated 2/3/06, Smt. Sushila Sharma, Joint Area Organiser has been promoted to the rank of Area Organiser in SSB in the Scale of Rs.12000-375-16500 superseding me and posted her at Birpur Area under FTR Hqrs Patna.

2. that Sir, as and when DPC is held promotion avenue is counted laying special emphasis on the basis of seniority-cum-merit which is not found done in a judicious manner in my case since my immediate junior has been promoted to the next higher rank in the scale of Area Organiser as above superseding me as per seniority list despite tribunal judgement exists in clear precise BD Kuba and another V. UOI, 2/2005 Swami News 108 (Jaipur) (14/7/04) -OA No.254 of 2003 and as such it is my fundamental right for consideration of my promotion to the next higher rank since the case of a senior can not be neglected as per Mandate of Article 16 of the Constitution of India.

Contd...P/2.

*Arrested
Smtta
Ahu*

3. that Sir, relating to merit which also counts on the grading of ACR for promotion by the DPC, nothing has been communicated to me as yet during the period of my posting as Joint Area Organiser at Palia under FTR Hqrs Lucknow or there before as Sub Area Organiser for which my ACR for the period of last five years may kindly be got verified in achieving the authenticity so that the factual position could be ascertained not to harm the career of a subordinate officer of your organisation without valid reason since my immediate Junior has been promoted as above superseding me despite I am very much senior as per seniority list.

4. that Sir, the bench mark for promotion from the rank of Joint Area Organiser to next higher post as above is "Very good". It is not only a well established fact but as per tribunal judgement 2/2005 SwamynewS 89,(Guwahati)-(27-7-2004)-O.A..No.300 of 2002 and decision of Tribunal (1996) 33-ATC 802 of CAT Allahabad Bench it is crystal clear that as and when grading is recorded in ACR against any officer/official below the bench mark as good and average when bench mark for promotion is very good held are adverse remark which is a must to communicate to the employee. Similarly the grading "Good" in ACR which is per se not above adverse also amounts to adverse when the bench mark is put as "Very Good". That Sir, Since nothing was communicated to me relating to ACR in my case as above I adjudged the grading "Very Good" and as such I am to be promoted with in the time frame with all consequent benefits from the date since when my immediate junior is in the selection list is promoted.

5. that Sir, neither any Departmental Enquiry nor Court of Inquiry is pending or contemplated against me and no any official charge/order is also received by me and as such I do not found any logic here in how my immediate junior has been promoted to the next rank superseding me.

Contd....P/3.

6. that Sir, in addition to above that I have shown my dedication towards the growth and prestige of the Organisation in the new role in achieving the assigned task on the charter of duty confined from Force Hqrs. as major task of the Organisation, the worthy Director-General, FHQ New Delhi and Inspector General FTR Lucknow appreciated in playing the performance by me as "EXCELLENT EFFORTS" AND EXEMPLARY WORK AS SUFFICIENT DOCUMENTARY EVIDENCE TO ADJUDGE MY CAPABILITY, SINCE IN MY area till date 09 successful major operations have been carried out on the 05 Charter of Duty confined from Force Hqrs. as Major task of which 05 were conducted independently at the initiative of my own source/contact in which not only led the seizures but apprehended the culprits also in each case as appreciated by Force Hqrs. and Frontier Hqrs several times (copy of appreciation letters enclosed) and as such I am unable to appreciate the vagueness under what circumstance my immediate junior is promoted to the next higher rank superseding me since in doing so not only attacked in my moral sentiment to spend the sleepless night but also has given a big blow to me in my service career.

On the light of above, your very kind and sympathetic honour is earnestly prayed for in order to convey to me the decision at the earliest considering the future career of a subordinate officer of your Organisation under what circumstances I have been debarred of and how promoted my immediate junior to the next higher rank superseding me so that I would be able to made up my mind for further course of action please.

An early reply in this regard is highly solicited.

Attached
Datta
Haw

Encls: Photo copy of
appreciation letters of worthy
DG FHQ New Delhi
& IG FTR LKW.(six copies)

Yours faithfully,

S. Choudhury
19/3/1971

(P.K.CHOUDHURY)
JOINT AREA ORANISER
SSB : PALIA KALAN

No. PF/AOP/2005-06/- 7547
Govt. of India (MHA)
Office of the Area Organiser,
SSB Kheri West at Palia,
Distt: lakhimpur Kheri (U.P)

Dated, the 20/3/06

To

The Deputy Inspector General,
SSB, Sector Hqrs Bahrach(U.P)

Sub: Representation-request convey reason for debarred of from promotion.

Sir,

I have the honour to enclose herewith a representation in triplicate along with six copies of appreciation letters addressed to worthy Director General, SSB submitted by Shri P.K.Choudhury, Joint Area Organiser, SSB, Palia to the subject cited above.

The representation so enclosed may kindly be forwarded to further higher hqrs early with copy of intimation to this office as desired by the officer for his further course of action please.

This is for favour of kind perusal and necessary action please.

Yours faithfully,

Encls : As above.

15/3/06
Area Organiser:
SSB :: Palia

20th letter
J. D. Choudhury
A.O.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
DIRECTORATE GENERAL
SASHASTRA SEEMA BAL
EAST BLOCK -V, R.K.PURAM,
NEW DELHI-110066.

5. B. No 7/SSB/A/2004/21 02/10

Dated: 16.08.2006

MEMORANDUM

Please refer to Frontier Hqrs. Lucknow Memo. No. GE/ FHQL/ Promotion /GO / 04/8005-06 dated 20.07.2006, forwarding representation dated 19.03.2006 of Shri P.K. Choudhury, Joint Area Organiser for not considering his promotion before his junior Smt. Sushila Sharma, Joint Area Organiser.

2. It is intimated that the name of Shri P.K. Choudhury, JAO with other eligible JAOs was considered by the DPC convened on 20.10.2005 for promotion to the grade of Area Organiser. But the DPC did not recommend the name of Shri Choudhury, JAO for promotion, as he could not attain the required bench mark "Very Good" for promotion. The name of Smt. Sushila Sharma, JAO junior to Shri P.K. Choudhury, JAO was recommended for promotion by the same DPC.

3. In view of above, Shri Choudhury, JAO could not be promoted to the grade of Area Organiser and his junior Smt. Sushila Sharma, JAO was promoted to the grade of Area Organiser during the vacancy year 2005-06. Shri Choudhury JAO may be informed accordingly.

4. This issues with the approval of Deputy Inspector General (Pers).

(Subhash Kumar)
Assistant Director (EA-II)

To

The Deputy Inspector General
Frontier Hqrs. Lucknow.

1. *What is the primary purpose of the study?*

No.21/SSB/A2/2003(2)-
MINISTRY OF HOME AFFAIRS
DIRECTORATE GENERAL, SSB
EAST BLOCK-V, R.K. PURAM
NEW DELHI - 110066

DATED : 25 JANUARY 2005

MEMORANDUM

SUBJECT: SENIORITY LIST OF JOINT AREA ORGANISERS IN SSB AS ON
01-01-2005.

Please refer to this office Memo. No. 21/SSB/A2/2003(2)-
1803-20 dated 1.6.2004 circulating seniority list of Joint
Area Organisers as on 1.5.2004.

2. The seniority list of Joint Area Organisers has been prepared on the basis of merit drawn by the DPC for promotion as Joint Area Organiser and revised where-ever necessary after rectifying the discrepancies pointed out by some Joint Area Organisers. The seniority list of Joint Area Organisers as on 1.1.2005, is forwarded herewith, which may please be circulated to all the Joint Area Organisers posted under them. They may be asked to verify the correctness of particulars shown in the seniority list with regard to date of birth, educational qualification, date of promotion etc. etc. from their service records. The discrepancy/commission if any, may be pointed out with supporting documents through proper channel, within one month of issue of this memorandum.

Encl : As above.


(SUBHASH KUMAR)
ASSISTANT DIRECTOR(EA-II)

To

The Inspector General, Ftr. Hqrs, SSB,
Lucknow/Patna/Guwahati/Director, FA Srinagar.

The Dy. Inspector General, Sector Hqrs., SSB,
Ranikhet/Bahraich/Gorakhpur/Muzaffarpur/
Barauni/Ranidanga/Bongaigaon.

The Dy. Inspector General, Training Centre,
Sapri/Salonibari/Barauni/FA Gwladam.

The Asstt. Director (Trg), FHQ New Delhi.

All Joint Area Organisers at FHQ New Delhi.

Shri N.C. Jhingta, Jt.A.O. SPG New Delhi.

Shri Rajender Kumar, Jt.A.O. NSG New Delhi.

Shri Chance Keishing, Jt.A.O. Narcotics Control Bureau
Govt. of India, North East Regional Unit,
Videocon House, 1st Floor, Paona Bazar, Imphal-795001.

Shri V.K. Sharma, Jt.A.O. Lok Sabha Sectt. New Delhi

Shri Thomas Chacko, Jt.A.O., SPG, New Delhi.

✓ Sh. P. K. Choudhury, Jt.A.O. Police

Office of
Minister
for
Home
Affairs

SENIORITY LIST OF JOINT AREA ORGANISERS IN SSB
AS ON 01.01.2005

35

No.	Name S/Shri	Date of Birth	Edu. qlf.	Date of joining Govt. service	Date of promotion as SAO	Date of promotion as Jt. AO	Present place of posting
		1.	2.	3.	4.	5.	6.
1.	K.R. Verma	20.5.46	MA	7.11.63	25.2.87	31.8.95	Betia-J
2.	Dilip Paul	11.3.53	B.Com	17.4.78	1.4.87	29.7.98	Bijapur
3.	R.K. Sharma	6.9.52	MA	30.1.81	7.4.88	6.8.98	FA Gwalior
4.	P.K. Roy (ST)	11.7.47	BA	3.4.81	10.5.88	17.8.98	Araria-I
5.	Gian Chand (SC)	28.6.51	MA	2.9.82	15.12.90	20.7.98	Sagar
6.	K. Baruah	14.1.51	B.Sc	4.5.73	12.4.88	30.1.99	Sitanchari
7.	Anand Saikia	1.9.52	BA	28.2.81	15.12.90	15.3.99	Boudh
8.	M. Sunil Singh	1.3.51	BA	6.3.81	21.7.90 (AN)	22.1.99	Jhunjharpu
9.	N.C. Jhingta	3.10.63	BA,LLB	2.2.89	23.6.90	24.12.98	(Deput. STG)
10.	Dr. P.S. Thakur	14.4.51	MA,PHD	1.5.81	28.6.90	24.12.98	Jayanager
11.	K.C. Dobhal	1.6.55	MA (Pt.I)	16.10.82	21.7.90	30.1.99	Kheri (E)
12.	P.K. Choudhury	1.7.48	MA	7.6.76	4.4.87	17.7.02	Kheri (W)
13.	Smt. Sushila Sharma	14.10.49	BA	4.2.69	26.10.87	13.8.02	Ranidara
14.	Jagdeep Pal Singh	26.6.65	BA,LLB, BJMC	23.1.91	23.1.91	7.3.03	FHQ Delhi
15.	Rup Singh (ST)	1.4.56	BA	6.5.82	26.7.90	13.3.03	FHQ Delhi
16.	R.S. Rana	19.7.54	BA	19.10.82	1.8.90	10.4.03	Purba
17.	Rajender Kumar	3.8.63	BSc,LLB	15.1.91	15.1.91	21.3.03	NHQ Delhi
18.	R.S. Belal	5.4.49	MA	14.10.82	30.7.90	30.4.03	Bulrampur
19.	P.S. Mehra	2.8.56	M.Sc	12.10.82	30.7.90	9.6.03	Nupur
20.	R.C. Sharma	2.3.47	BA,LLB	8.11.65	5.7.90	17.3.03	Sikkim
21.	Chance Keishing (ST)	1.4.63	BA (Hon)	23.3.83	20.6.90	10.4.03 (Deput. NCE)	
22.	R.L. Bedi	7.3.48	BA (Pt.I)	28.8.82	19.7.90	6.5.03	Bilaspur
23.	S.S. Thakur	10.8.56	BA,LLB	30.8.82	28.6.90	15.9.03	Kishanganj
24.	Shyam Singh (ST)	15.11.56	BA	2.9.82	27.8.90	12.2.04	Bongaigaon
25.	Sansar Chand	8.5.55	BA	15.2.77	8.8.90	19.2.04 (AN)	Tanakpur
26.	V.K. Sharma	2.6.57	BSc	20.8.82	22.2.91	16.6.04	(Deput. Lok Sabha Sectt.)
27.	A. Brahmin	19.4.52	BA	2.7.83	23.2.91	16.6.04	Kokrajhar
28.	Thomas Chacko	30.1.69	BA	9.10.91	9.10.91	6.12.04 (AN)	SPG Delhi
29.	A.K. Das	31.7.58	MA,LLB	12.10.83	12.2.91	6.12.04 (AN)	Darjeeling

To,

The Director General,
Sashastra Seema Bal.
Force Headquarter.
R.K. Puram, East Block- V
New Delhi- 110066.

(Through proper channel)

Sub: - Non-sanction of notional benefit of promotion to the cadre of Joint Area Organiser in terms of the judgment and order dated 18.06.2001 passed in O.A. No. 262/1999 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Respected Sir,

Most humbly and respectfully I beg to say that being aggrieved by non-consideration to the cadre of Joint Area Organisaor when my juniors had superseded me in the matter of promotion. I approached the learned Central Administrative Tribunal, Guwahati Bench through Original Application No. 262/1999 praying interalia for my promotion to the said cadre of Joint Area Organisor with all consequential benefit at least from the date of promotion of my immediate junior. The said Original Application was contested by the official respondents before the learned Tribunal, however, the learned Tribunal vide it's judgment and order dated 18.06.2001 passed in O.A. No. 262/1999 has allowed my original application and directed to grant notional benefit of promotion to the cadre of Joint Area Organisor from the date my juniors have been promoted and granted monetary benefit from the date of actual joining in the promotional cadre. The learned Tribunal also directed to hold a review DPC within a period of 3 months and also observed that in the event of found suitable the undersigned be granted the aforesaid benefit but surprisingly I have been promoted to the cadre of Joint Area Organiser vide order bearing No. 7/SSB/A2/2001 (1) 2709-2748 dated 15.07.2002 and there was no reference in the said order

*Atul
Mitali
Soh*

regarding grant of notional promotion benefit from the date of promotion of my erstwhile juniors. However, I was under the bonafide belief and legitimate expectation that in due course the said benefit of notional promotion would be granted to me as per direction of the learned Tribunal but surprisingly no steps has been taken till date for antedating my promotion to the cadre of Joint Area Organiser and no steps has been taken for grant of notional benefit, pay fixation, seniority in the cadre of Joint Area Organiser in spite of the direction passed by the learned CAT, Guwahati Bench. Due to non-fixation of notional promotion benefit as directed by the learned Tribunal the undersigned is also deprived from the benefit of further promotion to the cadre of Area Organiser. It is pertinent to mention here that the undersigned is incurring huge financial loss each and every month due to non-sanction of notional promotion benefit. It is also pertinent to mention here that vide my representation dated 19.03.06 I have also pointed out that my juniors have been promoted to the cadre of Area Organiser in supersession of my claim for promotion. However, vide memorandum dated 10.08.2006 it has been intimated to me that my name was not recommended by the DPC for promotion due to short fall in bench mark i.e. Very Good. It is relevant to mention here that it is my bonafide belief that I have constantly achieved the bench mark of "Very Good" for years together and there was no adverse communication or down fall in my ACR at least preceding 5 to 7 years. Therefore there is no justification to deny my promotion to the cadre of Area Organiser when my juniors have been promoted to the said cadre of Area Organiser.

Under the circumstances stated above I further request you to review my case of promotion to the cadre of Area Organiser from the date of promotion of my juniors and also be pleased to grant me notional promotion benefit at least from the date of promotion of my immediate junior Shri Dilip Paul (now promoted to the post of Area Organiser) and also be pleased to re-

fix my seniority in the cadre of Joint Area Organiser above my juniors who have superseded me earlier and further be pleased to reconsider my promotion to the cadre of Area Organiser. I am enclosing a copy of the judgment and order dated 18.06.2001 for your perusal and necessary action thereof for compliance of the same.

Enclo:- Judgment and order dated 18.06.01.

Yours faithfully



20/11/06

Date: - 20.11.06

(PRADIP KUMAR CHOUDHURY)

Joint Area Organiser
SSB, Falakata.

Attested
Rakesh
S. S.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
DIRECTORATE GENERAL
SASHASTRA SEEMA BAL
EAST BLOCK -V, R.K.PURAM,
NEW DELHI-110066.

2047
2/14
20/12/07
No.14/SSB/A2/2002(4) 1309

39
20/12/07
E.S.H.
Dated: 01.01.2007
1ST Recd.

MEMORANDUM

Please refer to Frontier Hqrs Guwahati Memorandum No.1(187)GE/PF/FTR-IBB/05/13-14 dated 02.01.2007 forwarding ~~therein~~ representation dated 20.11.2006 of Shri P.K. Choudhury, Joint Area Organiser, Falakata for notional benefit of promotion to the grade of JAO in terms of CAT Guwahati Judgment order dated 18.06.2001 passed in OA No.262/1999.

2. It is intimated that in compliance of CAT Guwahati Judgment order dated 18.06.2001 the case for promotion of Shri Choudhury, SAO to the grade of JAO has already been considered by the review DPC on 22.08.2001. Shri Choudhury SAO was not found fit for promotion by review Committee also. The position has already been informed to the officer concerned vide this office Memo. No.35/SSB/A2/99(3)-2588-89 dated 18.09.2001.

3. As regards his representation dated 19.03.2006 for promotion to the rank of JAO before Smt. Sushila Sharma, the same has also been examined and a reply has also been sent to him through Frontier Hqrs. Lucknow vide Force Hqrs Memo No.7/SSB/A2/2004(2)-6820 dated 10.08.2006.

4. In view of above, the representation dated 20.11.2006 of Shri Choudhury, JAO is rejected being devoid of merit. Please inform him accordingly.

(S.K. Gautam)
Deputy Inspector General(Pers)

To

The Deputy Inspector General
Frontier Hqrs., SSB,
Guwahati.

2399
Endst. NO: I(187)GE/PF/FTR-IBB/06/
O/o the Inspector General,
Frontier Hqrs., SSB, Guwahati.

Copy forwarded to:-

Dated: 07-02-07

The Area Organiser, SSB, Falakata - for information and necessary action please.

SECTION OFFICER
FRONTIER Hqrs. SSB, GUWAHATI.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH AT GUWAHATI

O.A. No. 173 OF 2007

Sri Pradip Kr. Choudhury

...Applicant

-Versus-

Union of India & Ors.

...Respondents

INDEX OF THE WRITTEN STATEMENT

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Received
Dutta
27/03/08

Filed by
Gourav Bhattacharya

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL *Guwahati Bench*
GUWAHATI BENCH AT GUWAHATI

24 MAR 2008

O.A. NO. 173 OF 2007

Sri Pradip Kumar Choudhury

... Applicant

-Versus-

Union of India & Ors

... Respondents

The written statement on behalf
of the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTIVULLY SHEWETH :

1. That with regard to the statement made in paragraph 1 of the instant application the Respondents beg to state that a perusal of the impugned memo reveals that there is no illegality in the said communication and the facts have been clarified to the applicant in detail. Reply to the successive paras of the OA would reveal that the respondents have acted as per the rules and instructions on the subject and there is no merit in the prayer of the applicant.
2. That with regard to the statement made in paragraph 2 of the instant application the Respondents beg to state that the claim of the applicant that the subject matter of this application is within the jurisdiction of the Hon'ble CAT Guwahati is denied being factually incorrect. The instant OA is not maintainable before the Hon'ble CAT Bench, Guwahati in light of Rule 6 of the CAT (Procedure) Rules which stipulates follows:

An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction: (i) the applicant is posted for the time being, or (ii) the cause of action wholly or in part has arisen, provided that with the leave of the chairman, the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25 such applications shall be heard by the Bench, which has jurisdiction over the matter. Notwithstanding anything contained in sub rule (1) a person who has ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench

within whose jurisdiction such person is ordinarily residing at the time of filing of the application. In the instant case the applicant is an in service officer presently posted at Falakata (West Bengal).

Moreover, in the present matter the cause of action occurred at New Delhi from where the order of his promotion was issued. Hence the applicant can only file the present case either before the Hon'ble CAT Bench, Calcutta or the Principal Bench, New Delhi as the Hon'ble CAT, Guwahati Bench has no jurisdiction to entertain the present OA. In their order dated 23.7.2004 the Hon'ble CAT Bench, Guwahati in an identical case wherein the Respondents had raised an objection with reference to the jurisdiction of the Court titled Gopi Nath Deka versus UOI & others wherein it was ordered to be dismissed as withdrawn by the same Hon'ble CAT Bench, Guwahati for lack of jurisdiction. In light of the foregoing submissions the OA be dismissed in limine.

A copy of the order is annexed herewith as Annexure-R-1.

3. That with regard to the statement made in paragraph 3 of the instant application the Respondents beg to state that those are matter of records, hence the respondents have no comment.

4. That with regard to the statement made in paragraph 4.1 and 4.2 of the instant application the Respondents beg to state that the same is matter of record.

5. That with regard to the statement made in paragraph 4.3 of the instant application the respondents beg to state that the applicant while holding the post of Sub Area Organiser filed an OA No. 262 of 1999 in Hon'ble CAT, Guwahati for promotion to the rank of Joint Area Organiser. The Hon'ble CAT, Guwahati vide their order-dated 18.6.2001 ordered the respondents to hold a review DPC for consideration of the claim of the applicant for promotion from Sub Area Organiser to the post of Joint Area Organiser within a period of 03 months from the date a copy of order is filed.

A copy of the order-dated 18.6.01 is annexed herewith as Annexure-R-2.

*Guwahati
Gopi Nath Deka*

Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

24 MAR 2001

Guwahati Bench

In compliance to orders of the Hon'ble CAT, Guwahati, a review DPC was held on 22.8.2001 to consider the promotion of Shri P.K. Choudhury, Sub Area Organiser to the rank of Joint Area Organiser. The review DPC held on 22.8.2001 reviewed the minutes of the earlier DPC held on 21.1.1998 and 7.8.1998 for promotion of Sub Area Organiser to the rank of Joint Area Organiser and considered the case of Shri P.K. Choudhury, Sub Area Organiser on the basis of his service records. The review DPC graded the applicant as "Good" whereas Sub Area Organisers junior to him who superseded him in the DPC held on 21.1.1998 and 7.8.1998 were graded as "Very Good". The review DPC did not find Shri P.K. Choudhury, Sub Area Organiser suitable for promotion to the rank of Joint Area Organiser, even after expunging the adverse remarks in his ACR for the year 1995-1996. Accordingly, in compliance to court orders the out come of review DPC was informed to Shri P.K. Choudhury, Sub Area Organiser vide this office Memorandum No. 35/SSB/A2/99(3)-2588-89 dated 18.9.2001 which was acknowledged by him vide his receipt dated 26.9.2001. Therefore, the contention that the respondents were silent in this regard regarding the out come of review DPC is incorrect and a projection of wrong facts. The respondents had complied the directions of the Hon'ble Court in letter and spirit and they have committed no illegality.

6. That with regard to the statement made in paragraph 4.4 of the instant application the Respondents beg to state that it is correct that Shri P.K. Choudhury and Smt Sushila Sharma were promoted to the rank of Joint Area Organiser vide this office order No. 7/SSB/A2/2001 (1)-2709-2748 dated 15.7.2002 with the approval of MHA.

In compliance to the directions of the Hon'ble CAT, Guwahati dated 18.6.2001 a review DPC was held on 22.8.2001 to consider the promotion of Shri P.K. Choudhury, Sub Area Organiser to the rank of Joint Area Organiser but he could not be promoted, as the applicant was not found suitable for promotion as per recommendation of review DPC.

7. That with regard to the statement made in paragraph 4.5 of the instant application the Respondents beg to state that no DPC was held on 18.12.1997 for promotion of Sub Area Organisers to the grade of Joint Area Organiser in SSB. The DPC for promotion of Sub Area Organiser to the grade of Joint Area Organiser was held on 21.01.1998 on 09.8.1998. Review DPC was held on 22.8.2001 in compliance to the directions of the Hon'ble CAT

It is also mentioned here that the DPCs for promotion ~~are held~~ convened every year if the existing/ anticipated vacancies exist in a particular grade/ cadre.

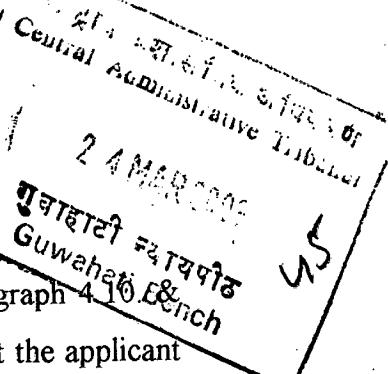
8. That with regard to the statement made in paragraph 4.6 of the instant application the Respondents beg to state that on 20.10.2005 a DPC was held to consider promotion of Joint Area Organisers to the rank of Area Organiser in which Shri P.K. Choudhury Joint Area Organiser with others was considered. The DPC did not recommend the name of the applicant for promotion to the rank of Area Organiser, as he could not obtain required benchmark of "Very Good". Whereas the name of his junior Smt Sushila Sharma, Joint Area Organiser who obtained the required benchmark was recommended for promotion to the rank of Area Organiser by the same DPC and accordingly she was promoted to the rank of Area Organiser (Rs. 12000-16500/-) vide this office order No. 7/SSB/A2/2004(2)-1112-60 dated 2.3.2006 by superseding Shri P.K. Choudhury, Joint Area Organiser.

9. That with regard to the statement made in paragraph 4.7 & 4.8 of the instant application the Respondents beg to state that the applicant submitted a representation dated 19.3.2006 for his promotion to the rank of Area Organiser, and against the promotion of his junior Smt Sushila Sharma, Joint Area Organiser to the rank of Area Organiser by superseding him. As already stated the applicant was not recommended for promotion to the rank of Area Organiser by the DPC held on 20.10.2005 whereas the name of his junior Smt Sushila Sharma, Joint Area Organiser was recommended for promotion to the rank of Area Organiser by the same DPC. A reply was furnished to Shri P.K. Choudhury, Joint Area Organiser through Deputy Inspector General, Frontier Hqrs., Lucknow vide this office memorandum No. 7/SSB/A2/2004(2)-6820 dated 10.8.2006.

The required benchmark for promotion of Joint Area Organiser to the grade of Area Organiser is "Very Good". Hence unless and until an individual obtains the prescribed benchmark he cannot be promoted.

10. That with regard to the statement made in paragraph 4.9 of the instant application the Respondents beg to state that it is an admitted fact that Shri P.K. Choudhury, Joint Area Organiser was senior to Smt Sushila Sharma, Joint Area Organiser in the seniority list of Joint Area Organisers as on 01.01.2005 circulated vide Force Hqrs memorandum No. 21/SSB/A2/2003(2)-325-50 dated 25.1.2005. However, as the applicant failed to attain the prescribed benchmark his juniors who attained the benchmark superseded him.

*Guruva
Gopinath Deka*



11. That with regard to the statement made in paragraph 4.11 of the instant application the Respondents beg to state that the applicant submitted representation dated 20.11.2006 for implementation of CAT Guwahati order dated 18.6.2001 to consider his promotion to the rank of Area Organiser with effect from the date of promotion of Smt Sushila Sharma, Area Organiser who was junior to him in the rank of Joint Area Organiser. It is reiterated that in compliance of CAT Guwahati Judgment and order dated 18.6.2001, a review DPC was held on 22.8.2001 to consider the promotion to Sri P.K. Choudhury from the rank of Sub Area Organiser to joint Area Organiser but his case was not recommended for promotion by review DPC. As regards his suppression by Smt Sushila Sharma, Area Organiser, the name of applicant for promotion to the rank of Area Organiser was not recommended by the DPC held on 20.10.2005 whereas the name of his junior Smt Sushila Sharma, Joint Area Organiser for promotion to the rank of Area Organiser was recommended by the same DPC. A reply has been sent to the applicant through Deputy Inspector General, Frontier Hqrs. Guwahati vide this office memorandum No. 14/SSB/A2/2002(4)-1309 dated 01.2.2007.

12. That with regard to the statement made in paragraph 4.12 of the instant application the Respondents beg to state that it is reiterated that the name of applicant was not recommended for promotion to the grade of Area Organiser by the DPC held on 10.10.2005 as he could not obtain required benchmark prescribed for promotion, which is a mandatory condition for promotion.

13. That with regard to the statement made in paragraph 4.13 of the instant application the Respondents have no comment.

14. That with regard to the statement made in paragraph 5 of the instant application the Respondents beg to state that the issue raised in the grounds has already been clarified in detail in the reply furnished to foregoing paras of the OA and it is reiterated for the sake of brevity. The Respondents have complied the earlier directions of the Hon'ble Court in letter and spirit and there is no illegality or infirmity in the decision of the Respondents as the applicant had failed to attain the minimum benchmark prescribed for promotion and as such he could not be promoted.

15. That with regard to the statement made in paragraph 6 & 7 of the instant application the Respondents have no comment.

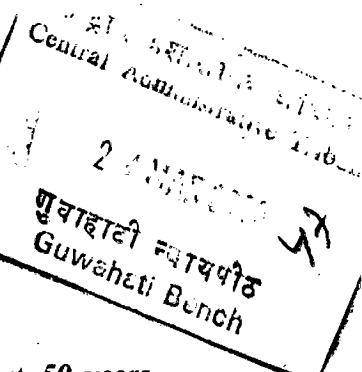
16. That with regard to the statement made in paragraph 1 of the instant application the Respondents beg to state that in light of the foregoing submissions there is no merit in the instant OA and the same be dismissed being devoid of merit and also on jurisdiction.

17. That with regard to the statement made in paragraph 9 to 12 of the instant application the Respondents have no comment.

In the light of the foregoing submission it is most respectfully prayed that the instant OA is devoid of any merit and not based on any legal foundation and as such the same deserves outright dismissal with costs. It is prayed accordingly.

Ganatra Gopinath Deo
Signature
Dy. Inspector General
Ftr. HQ. SSB, (MHA)
(Gujarati).

VERIFICATION



I, Gopi Nath Deka S/o Late Bella Ram Deka aged about 59 years, working as Deputy Inspector General, in the office of the Inspector General, Sashastra Seema Bal, Zoo Road, Udaypath, Guwahati-781024 being competent and authorised officer of the answering respondents, do hereby verify that the statement made in paras 1, 3, 4, 6 - 17 are true to my knowledge and those made in paras 2 & 5 being matters of record are true to my information derived there from which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this 11 th day of March 2008 at Guwahati.

Gopi Nath Deka.
Signature
Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

App - / Misc Petn/ Cont. Petn/ Rev. Appl.....

132/04

24 MAR 2004

Guwahati Bench

In O.A.....

of the Applicant(s) ... Gopinath Deka

of the Respondent(s) ... M. O. R. ... 9003

locate for the Applicant, K. K. Phukan, B. K. Baruah, J. L. Khale

inself for the Railway Ac 2004..... Heard Mr. K. K. Phukan, learned counsel for the applicant.

ORDER OF THE TRIBUNAL

RECEIVED NOTE

DATE

23.7.2004 present: The Hon'ble Shri K.V. Sachidanand, Member (J).

The Hon'ble Shri K.V. Prahladar Member (A).

When the matter came up for ~~maxx~~ admission, Mr. A. K. Chaudhuri, learned Addl. C. C. S. C. objected to the admission of the O.A. since cause of action does not lie within the jurisdiction under rule 6 (a) of the C.A.T. procedure Rules, 1987. Mr. K. K. Phukan, learned counsel for the applicant, submitted that in that event, he may kindly be given permission to withdraw the O.A. permission granted and the applicant is at liberty to take up the matter in appropriate forum.

O.A. is dismissed on withdrawal. Interim order will automatically be vacated.

TRUE COPY

RECORDED

4/8/04

Sd/ MEMBER (J)

Sd/ MEMBER (Adm)

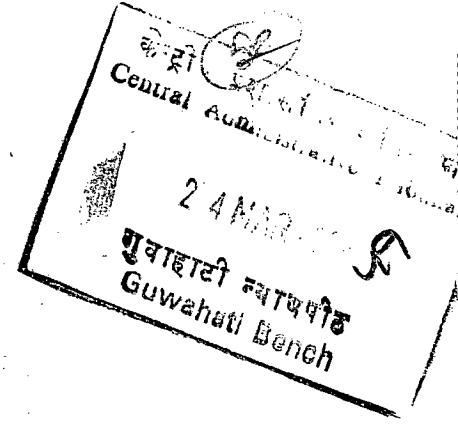
Section Officer (J)

C.A.T. GUWAHATI BENCH

Guwahati 781005

Dated
Date:
Place:

FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



ORDER SHEET

rg. App./Misc.Petn/Cont.Petn/Rev.Appl..... 54/04

In O.A..... 132/04

Name of the Applicant(s) M. O. I. & ORS.

Name of the Respondent(s) Gopi Nath Deka

Advocate for the Applicant M. A. K. Choudhury, Adel. CGSC.

Counsel for the Railway/CGSC Mr. K. K. Dube, B. N. Baruah
J. L. Lethak

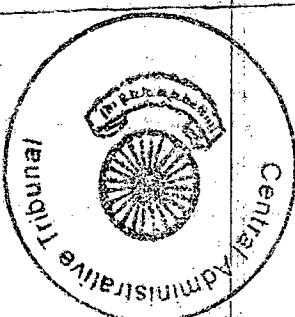
DATE

ORDER OF THE TRIBUNAL

23.7.2004 present: The Hon'ble Shri K.V. Sachidanandan, Member (J).

The Hon'ble Shri K.V. Prahledan Member (A).

In view of the order passed in
O.A. the M.P. also stands disposed of.



TRUE COPY
Sd/-

Sd/ MEMBER (J)
Sd/ MEMBER (Adm)

23/04/04/04

Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

Original Application No. 262 of 1999

Date of decision: This the 18th day of June 2001

The Hon'ble Mr Justice R.R.K. Trivedi, Vice-Chairman

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Pradeep Kumar Choudhury,
Sub-Area Organiser, SSB, Barpeta,
Office of the Area Organiser,
North Kamrup, Area Howly,
District- Barpeta.

By Advocates Mr S. Ali and Mr I. Hussain.

Guwahati Bench

.....Applicant

- versus -

The Union of India and others

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)

TRIVEDI.J. (V.C.)

By means of this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for direction to the respondents to hold review DPC to consider the case of the applicant to promote him to the post of Joint Area Organiser, Special Security Bureau (hereinafter referred to as SSB). It has been further claimed that the respondents may be further directed to promote the applicant from the date his juniors were promoted as Joint Area Organiser.

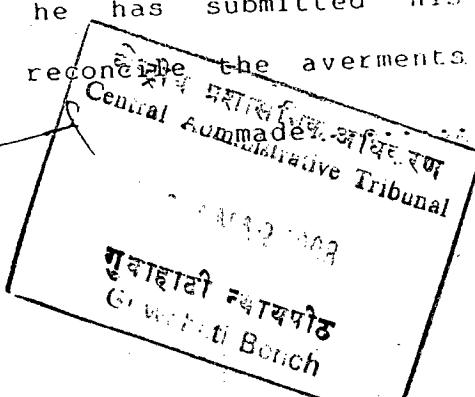
2. The facts, in short, giving rise to the dispute are that the applicant, P.K. Choudhury, joined as circle organiser on 17.4.1976. On 4.4.1987, the applicant was

Babu
Advocate

Signature

promoted as Sub-Area Organiser and posted at Daporijo, Upper Subansiri District, Arunachal Pradesh. The order dated 20.2.1987 promoting the applicant to the post of Sub-Area Organiser has been filed as Annexure 2. From Sub-Area Organiser the next promotion is to the post of Joint Area Organiser. It appears that on 18.12.1997 DPC was convened for considering the names of the persons who were serving as Sub-Area Organiser for promotion to the post of Joint Area Organiser. However, the applicant was not recommended for promotion, aggrieved by which the applicant has filed this application.

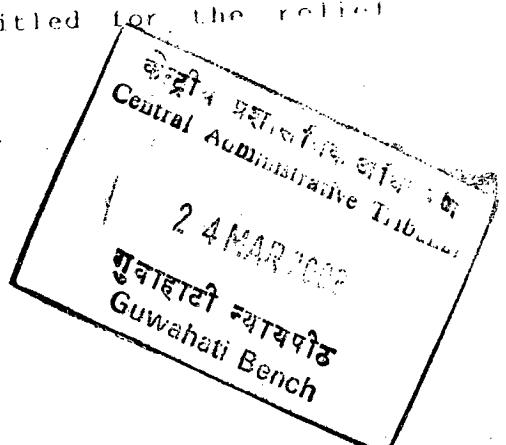
3. Written statement has been filed, wherein it has been stated that the panel recommended by the DPC did not include the name of the applicant, hence he was not promoted. It appears that in respect of the period from 1.4.1995 to 20.4.1995 the applicant was given adverse remarks against which he filed representation on 11.10.1996, which was pending before the competent authority for consideration. It appears that the DPC did not recommend the name of the applicant on account of the adverse remarks communicated to him for the aforesaid period. The representation filed by the applicant, however, was allowed on 15.2.1999. A copy of the order has been filed as Annexure 6. The fact has been admitted in para 6 of the written statement. In para 20 of the written statement, however, it has been stated that the applicant's submission that he submitted a representation to the Directorate against the adverse remarks is not correct. No such representation was received. The applicant has not given any reference by which he has submitted his representation. It is difficult to reconcile the averments.



made in para 6 and para 20 of the written statement. The existence of the order dated 15.2.1999 has been admitted, which specifically refers the representation dated 11.10.1996 against the adverse remarks recorded in his part ACR for the period from 1.4.1995 to 20.7.1995. The officer who has filed the written statement could not have stated in para 20 of the same written statement that no representation against the adverse remarks was filed. The statement in para 20 of the written statement appears to be incorrect.

In para 20 of the written statement it has also been stated that ~~promotion~~ Sub-Area Organiser with six years service in the grade and who has successfully passed the Executive Officers Training course, can be considered for promotion to the rank of Joint Area Organiser. In the present case, as the applicant was promoted and appointed as Sub-Area organiser on 4.4.1987 he had already completed more than ten years service as Sub-Area Organiser on 18.12.1997 when the DPC held its meeting. So far the adverse remarks are concerned the settled legal position is that either the DPC should wait for the result of the representation made by the concerned officer or it should itself consider the representation of the applicant against the adverse remarks. In the present case the DPC failed to adopt either of the two courses open. It appears that on account of adverse remarks, ~~the claim of~~ the applicant was not considered suitable for the next promotional post. In our opinion, in view of the fact that adverse remarks had been expunged the applicant is entitled for the relief claimed in the O.A.

B



5. The O.A. is accordingly allowed. The respondents are directed to hold a review DPC meeting for consideration of the claim of the applicant for promotion from Sub-Area Organiser to the post of Joint Area Organiser within a period of three months from the date a copy of this order is filed. If the applicant is found suitable for promotion by the DPC he shall be entitled for ^{u/national} promotion from the date ^{when our monetary benefit} his juniors were promoted to the post ^{u/national} ~~he shall get from the date of his promotion~~.

6. Before parting with this case we express our unhappiness against the irresponsible statements made in the written statement by Shri P.C. Dangwal, Divisional Organiser, Special Security Bureau, North Assam Division, Tezpur. It is difficult to reconcile para 6 and para 20 of the written statement. Verification clause of the written statement is also defective. Paragraphs 6 and 20 have been verified as correct on basis of information. The official respondents always file the written statement and affidavits on the basis of information received from the records and their correctness should be verified with reference to the record only. Though, initially we intended to take action ourselves against the officer, however, as it has been noticed for the first time by this Tribunal, we are leaving it to the Departmental Authorities to take care in future and to avoid such happenings.

7. A copy of this order shall be forwarded to the Director General, Special Security Bureau, New Delhi, for information and follow-up action in the matter.

No order as to costs.

Date of Application : 13/11/06
on which copy is ready : 13/11/06
on which copy is delivered : 13/11/06
Office to be true COPY

Section Officer (Jdly)
C. A. T. Guwahati Bench
Guwahati 13/11/06

